IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.719 OF 2004
IN
SUIT NO.1654 OF 2004

Oasis Luminaries P.Ltd. ..Plaintiffs

Vs.

Reunion Engg.Co.Ltd. ..Defendants

Mr.R.D.Suvarna for the plaintiffs

Mr.Joseph i/b Joseph and Associates for the defendants

CORAM : S.U.KAMDAR, J
DATED : 3RD OCTOBER, 2005

P.C.:

1. The present suit is filed for the recovery of sum of Rs.4,47,533.62 in respect of goods sold and delivered under two invoices. The defence of the defendants is two fold.

2. Firstly, it is contended that this court has no jurisdiction to entertain and try the suit. Such defence is required to be rejected simply because it is an admitted position that the defendants are carrying on business in Mumbai and Regd.Office of the defendants is situated at Mumbai. In that view of the matter even if the

cause of action has not arisen in Mumbai still by virtue of the fact that the defendants carry on business in Mumbai therefore the suit will be maintainable in this court and this court will have Jurisdiction to entertain and try the suit.

3. The next contention raised is in respect of the supplies effected under two invoices. The delivery of the goods has been made on company known as Baxter (India) P.Ltd. at Gurgaon, Haryana. Thus, it is a case of the defendants that no goods being delivered to them they have no liabiltiy to pay. I have perused the documents. Purchase Order placed by the defendants itself indicates that the delivery of the goods has to be made at site which is at Baxter (India) P.Ltd., Gurgaon, Haryana. However, the learned counsel for the defendants contends that the Purchase order is of 2001 and invoices are of 2002 and therefore they are not related to the said Purchase Order.

4. I have perused the invoices of 2001 and delivery challans of defendant no.1 also of the said period which also indicates that the delivery

of the goods was required to be made at Gurgaon, Haryana. It is not in dispute that the defendant company was awarded the contract to carry out certain work at the site of Baxter (India) P.Ltd. and in respect thereof delivery of the goods were sought by the defendants from the plaintiffs.

5. In that view of the matter, there is no merits in the aforesaid defence raised by the defendants. However, with a view to give an opportunity to the defendants to defend the suit, I direct the defendants to deposit a sum of Rs.4,25,000/-within 4 weeks failing which plaintiffs will be entitled to decree. If the said amount is deposited the Prothonotary and Senior Master is directed to invest the same in any Nationalised Bank in Fixed Deposit initially for a period of 3 years and then renew the same from time to time till further orders of this court. If the amount is deposited then suit is to be transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from the date of deposit of the said amount. Affidavits, list of documents to be filed

within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.